IN THE HIGH COURT OF JUDICATURE AT BOMBAY
SIDE JURISDICTION
CRIMINAL APPLICATION NO.336 OF 2006
IN
CRIMINAL APPLICATION NO.1944 OF 2006

Ramchandra P. Mishra ...Applicant.
V/s.
The State of Maharashtra & Anr. ...Respondents.

Shri H.R.Sharma, adv. for the Applicant.
Smt.M.M.Deshmukh, APP for the State/Respondent No.1.

CORAM: J.H.BHATIA, J.
DATE : 18th January, 2007.

P.C.:

1. This is an application for condonation of delay of about 9 months in filing an appeal and an application seeking leave to prefer appeal against the order of acquittal in Criminal Case No.1990/SS/2005. The applicant had filed 2 criminal cases under Section 138 of the Negotiable Instruments Act against respondent no.2 and both were contested. One of those cases ended in conviction and another ended in acquittal by the impugned judgment and order dated 30th June, 2005. As stated in paragraph 3 of the application, the applicant had filed an application for certified copy on 5-7-2005 and certified copy was delivered to him on 8-7-2005. According to him, his mother was not keeping well for a number of years in his native Village:Lakhdharpur, District:Jaunpur, Uttar Pradesh and, therefore, he went

to see his mother and came back by the end of March, 2006. Due to this, delay was caused and the appeal alongwith the present application was filed on 29th April, 2006. From the facts, it is clear that the acquittal in the criminal case was known to the applicant on the day on which order was passed and within 8 days, he also received a certified copy. It is material to note that in paragraph 4 and 5 of the application while explaining the delay, the applicant did not state when he had been to his native place but he stated that he came back at the end of March, 2006. Taking into consideration these circumstances, I find that delay of almost 9 months in preferring appeal is not properly explained.

2 Application stands dismissed.

(J.H.Bhatia,J.)